

Emilie K. Edling, OSB #035931
E-mail: eedling@houser-law.com
HOUSER & ALLISON, APC
9600 SW Oak St., Suite 570
Portland, OR 97223
Telephone: (503) 914-1382
Facsimile: (503) 914-1383
Attorney for Federal National Mortgage
Association

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

In re

Joseph George Meeko IV
Carmen F. Meeko,

Debtors.

Bankr. Case No.: 14-35434-tmb13

District Court Case No. 3:15-cv-01200-AA

Ninth Circuit Case No. 16-35275

Federal National Mortgage Association,

Appellant

**APPELLANT'S STATEMENT OF
ISSUES, DESIGNATION OF RECORD
ON APPEAL, AND NOTICE OF
ORDERING TRANSCRIPT**

v.

Joseph George Meeko, IV; Carmen F.
Meeko; and Meritage Homeowners'
Association,

Appellees.

Appellant Federal National Mortgage Association ("Fannie Mae" or "Appellant"),
pursuant to Federal Rule of Bankruptcy Procedure 8006 and Federal Rule of Appellate

Procedure 6(B), submits its (i) statement of issues (“Statement of Issues”) to be presented on its appeal and (ii) designation of items in the record (“Designation of Record”) to be included in the record on appeal, and (iii) Notice of Ordering Transcript.

I. STATEMENT OF ISSUES

Appellant presents the following issues on appeal:

(1) Did the District Court err in finding that relief pursuant to Federal Rule of Procedure 60(b) is unavailable to set aside an Order Confirming a Bankruptcy Plan.

(2) Did the Bankruptcy Court err – and the District Court err in failing to reverse the decision – in failing to grant Fannie Mae’s Motion to Set Aside Order Confirming Plan and err in failing to modify or set aside the Order Confirming Plan and Resolving Motions (Doc. 27) for the reasons set forth in Fannie Mae’s Motion to Set Aside, including but not limited to:

- (a) Excusable neglect and surprise under FRCP 60(b)(1);
- (b) Newly discovered evidence under FRCP 60(b)(2);
- (c) The existence of a void order under FRCP(b)(4);
- (d) Other extraordinary reasons justifying relief under FRCP 60(b)(6);
- (e) The Court’s equitable power under 11 U.S.C. § 105(a); and
- (f) Fraud under FRCP(b)(3) and 11 U.S.C. 1330.

(3) Did the Bankruptcy Court err – and the District Court err in failing to reverse the decision – in failing to grant Fannie Mae’s Motion for Reconsideration Pursuant to Federal Rule of Bankruptcy Procedure 9023 and 9024 and set aside or modify the Order Confirming Plan and Resolving Motions (Doc. 27) as requested in the Motion.

II. DESIGNATION OF THE RECORD

Appellant designates the following items to be included in the record on its appeal.

To the extent exhibits are attached to or referred to in any of the items identified below, they shall be included in the Designation of Record. In addition, Appellant hereby designates in the record on appeal the transcripts of the court hearings as further identified below and in Appellant's Notice of Ordering Transcript included herein.

| <u>Docket #</u> (14-35434-tmb13 unless otherwise stated) | <u>Date Filed</u> | <u>Description of Document/Date Entered</u> |
|---|-------------------|---|
| 1 | 9/25/2014 | Chapter 13 Voluntary Petition. Fee Amount \$310. ANN K CHAPMAN on behalf of Joseph George Meeko IV, Carmen F. Meeko. (CHAPMAN, ANN) (Entered: 09/25/2014) |
| 2 | 9/25/2014 | INITIAL Chapter 13 PLAN ANN K CHAPMAN on behalf of Joseph George Meeko IV, Carmen F. Meeko. (CHAPMAN, ANN) (Entered: 09/25/2014) |
| 4 | 9/25/2014 | Chapter 13 Statement of Current Monthly and Disposable Income Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 09/25/2014) |
| 9 | 9/28/2014 | Certificate of Notice Re: 2 INITIAL Chapter 13 PLAN ANN K CHAPMAN on behalf of Joseph George Meeko IV, Carmen F. Meeko. (CHAPMAN, ANN). (Admin.) (Entered: 09/28/2014) |
| 12 | 10/21/2014 | Amended Schedule(s) Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 10/21/2014) |

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| 14 | 10/21/2014 | Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 10/21/2014) |
| 16 | 10/23/2014 | Notice of Amended Schedules and Amended Schedules-Creditor Mailing List and certification that all additional creditors have been uploaded and verified. Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 10/23/2014) |
| 19 | 10/27/2014 | Notice of Amended Schedules and Amended Schedules-Creditor Mailing List and certification that all additional creditors have been uploaded and verified. Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 10/27/2014) |
| 21 | 11/03/2014 | Objection to Confirmation of Amended Plan Filed by Creditor Meritage Homeowners' Association (Re:14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV). (WARREN, BRITTA) (Entered: 11/03/2014) |
| 22 | 11/07/2014 | First Amended Attorney's Disclosure of Compensation Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 11/07/2014) |
| 23 | 11/07/2014 | Fee Itemization Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 11/07/2014) |
| 24 | 11/13/2014 | Record of Proceeding Re: Adjourned Confirmation Hearing to be Held on 12/04/2014 at 01:30 PM at Courtroom #4, Portland. (bls) (Entered: 11/13/2014) |

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| Transcript | 11/13/2014 | Actual transcript of hearing held on 12/4/14 at 1:30 p.m. |
| 25 | 11/13/2014 | Withdrawal of 21 Objection to Confirmation of Amended Plan Filed By Creditor Meritage Homeowners' Association (WARREN, BRITTA) (Entered: 11/13/2014) |
| 26 | 11/14/2014 | Correspondence Re: Entry of OCP Filed By Trustee Wayne Godare (^Godare2, Wayne) (Entered: 11/14/2014) |
| 27 | 11/17/2014 | Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (Entered: 11/17/2014) |
| 29 | 11/24/2014 | Adversary case 14-03271. Complaint by Joseph George Meeko IV, Carmen F. Meeko against Meritage Homeowners' Association, Mark C Hoyt, Sherman Sherman Johnnie & Hoyt LLP Fee Exempt Nature of Suit:(72 (Injunctive relief - other)),(91 (Declaratory judgment))(CHAPMAN, ANN) (Entered: 11/24/2014) |
| 30 | 12/24/2014 | Amended Schedule(s) Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (CHAPMAN, ANN) (Entered: 12/24/2014) |
| 35 | 3/10/2015 | Motion to Vacate and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) Modified on 3/11/2015 (pjk). Noted: Removed extraneous text language. (Entered: 03/10/2015) |

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| 37 | 3/11/2015 | First Amended Declaration of Emilie K. Edling Re: 35 Motion to Vacate Filed By Creditor Federal National Mortgage Association (EDLING, EMILIE) (Entered: 03/11/2015) |
| 38 | 3/11/2015 | Motion to Seal Document and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:35 Motion to Vacate and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) Modified on 3/11/2015 (pjk). Noted: Removed extraneous text language. filed by Creditor Federal National Mortgage Association (EDLING, EMILIE) (Entered: 03/11/2015) |
| 42 | 3/23/2015 | Response Filed by Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV Re: 35 Motion to Vacate and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re: 27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) Modified on 3/11/2015 (pjk). Noted: Removed extraneous text language. (CHAPMAN, ANN) (Entered: 03/23/2015) |
| 46 | 4/10/2015 | Order Granting 38 Motion to Seal Document and Supporting Document(s). filed by Creditor Federal National Mortgage Association (ljr) (Entered: 04/10/2015) |

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| 47 | 4/10/2015 | **SEALED** Affidavit Filed Under Seal: Exhibit 3 to Kevin Flannigan's Declaration filed with 35 Motion to Vacate Filed By Creditor Federal National Mortgage Association (EDLING, EMILIE) Corrected docket text. Modified on 4/10/2015 (rdl). (Entered: 04/10/2015) |
| 50 | 4/13/2015 | Supplemental Memorandum In Support of 35 Motion to Vacate Filed By Creditor Federal National Mortgage Association (EDLING, EMILIE) (Entered: 04/13/2015) |
| 51 | 4/14/2015 | Supplemental Declaration of Kevin Flannigan Re: 35 Motion to Vacate Filed By Creditor Federal National Mortgage Association (EDLING, EMILIE) (Entered: 04/14/2015) |
| 52 | 4/15/2015 | Hearing Held. Re: 35 Motion to Vacate and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) (bls) (Entered: 04/15/2015) |
| Transcript | 4/15/2015 | Actual transcript of hearing held on 4/15/15. |
| 54 | 4/28/2015 | Order Re: 35 Motion to Vacate Federal National Mortgage Assn's Motion to Set Aside Order Confirming Plan, Declaration of Kevin Flannigan in Support of Motion, Declaration of Emilie Edling in Support of Motion and Supporting Document(s). filed by Creditor Federal National Mortgage Association (ljr) (Entered: 04/28/2015) |
| 57 | 5/12/2015 | Motion to Reconsider PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9023 AND 9024 and Supporting Document(s). Filed by Creditor |

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| | | Federal National Mortgage Association Re:35 Motion to Vacate and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) Modified on 3/11/2015 (pjk). Noted: Removed extraneous text language. filed by Creditor Federal National Mortgage Association (EDLING, EMILIE) (Entered: 05/12/2015) |
| 58 | 5/12/2015 | Notice of Appeal and Optional Statement of Election to District Court. Filed by Creditor Federal National Mortgage Association RE: 54 Order on Motion to Vacate (EDLING, EMILIE). Appeal Designation Due: 05/26/2015. (Entered: 05/12/2015) |
| 62 | 5/12/2015 | Notice of Referral of Appeal to USDC. Via ECF: Emilie K Edling (Federal National Mortgage Association, Ann K Chapman (Debtor/Joint Debtor), Britta E Warren (Mark C Hoyt) (Meritage Homeowners' Association, Wayne Godare (Ch 13 Trustee), US Trustee, Jennifer L Aspaas (SunTrust Mortgage Inc. Via US MAIL (BNC): Oregon Dept of Revenue, Asset Systems Inc, Internal Revenue Services. Mailed on: 5/12/15 Re: 58 Notice of Appeal and Optional Statement of Election to District Court. Filed by Creditor Federal National Mortgage Association RE: 54 Order on Motion to Vacate (EDLING, EMILIE). Appeal Designation Due: 05/26/2015. (ljr) (Entered: 05/12/2015) |
| 66 | 5/14/2015 | Certificate of Notice Re: 61 Service of Document on NON-ECF Recipients Re: 58 Notice of Appeal and Optional Statement of Election to District Court. Filed by Creditor Federal National Mortgage Association RE: 54 Order on Motion to Vacate (EDLING, EMILIE). Appeal Designation Due: 05/26/2015. (pjk). (Admin.) (Entered: 05/14/2015) |

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| 68 | 5/18/2015 | Transcript re: Appeal, of Hearing Held on April 15, 2015, and Notice of Filing Thereof, re: Motion to Dismiss Cause of Action and 35 Motion to Vacate and Supporting Document(s) Filed by Creditor Federal National Mortgage Association. Court Transcript Review due on 8/17/2015. (pjk) (Entered: 05/18/2015) |
| 71 | 5/29/2015 | Response Filed by Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV Re: 57 Motion to Reconsider PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9023 AND 9024 and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:35 Motion to Vacate and Supporting Document(s). Filed by Creditor Federal National Mortgage Association Re:27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) Modified on 3/11/2015 (pjk). Noted: Removed extraneous text language. filed by Creditor Federal National Mortgage Association (CHAPMAN, ANN) (Entered: 05/29/2015) |
| 73 | 6/10/2015 | Certificate of Notice Re: 70 Order Re: 69 Motion to Extend Time for Appeal Under 8002c filed by Creditor Federal National Mortgage Association (ljr). (Admin.) (Entered: 05/31/2015) |
| 75 | 6/11/2015 | Hearing Held. Re: 57 Motion to Reconsider PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9023 AND 9024. Filed by Creditor Federal National Mortgage Association Re:35 Motion to Vacate . Filed by Creditor Federal National Mortgage Association Re:27 Order Confirming Plan and Resolving Motions. Re 14 Notice of Pre-Confirmation Amendment of Plan and Amended Plan Dated 10/20/2014 Filed By Joint Debtor Carmen F. Meeko, Debtor Joseph George Meeko IV (ljr) (EDLING, EMILIE) (bls) (Entered: 06/11/2015) |

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| 76 | 6/23/2015 | BAP Notice of Transfer of Appeal to District Court and Order Transferring appeal to District Court (pjk) (Entered: 06/23/2015) |
| 77 | 6/23/2015 | Order re: 57Federal National Mortgage Association's Motion to Reconsider Pursuant to Federal Rule of Bankruptcy Procedure 9023 and 9024. (rdl) (Entered: 06/23/2015) |
| 80 | 6/29/2015 | Amended Notice of Appeal and Optional Statement of Election to District Court. Filed by Creditor Federal National Mortgage Association RE: 58 Notice of Appeal and Optional Statement of Election filed by Creditor Federal National Mortgage Association (EDLING, EMILIE). Appeal Designation Due: 07/13/2015. (Entered: 06/29/2015) |
| 83 | 7/1/2015 | Certificate of Notice Re: 79 Transmittal of Record on Appeal to U.S. District Court Re: 58 Notice of Appeal and Optional Statement of Election to District Court. Filed by Creditor Federal National Mortgage Association RE: 54 Order on Motion to Vacate (EDLING, EMILIE). Appeal Designation Due: 05/26/2015. (ljr) Additional attachment(s) added on 6/29/2015 (pjk). Modified on 6/29/2015 (pjk) to attach the corrected document.. (Admin.) (Entered: 07/01/2015) |
| 84 | 7/1/2015 | Certificate of Notice Re: 81 Transmittal of Record on Appeal to U.S. District Court Re: 80 Amended Notice of Appeal and Optional Statement of Election to District Court. Filed by Creditor Federal National Mortgage Association RE: 58 Notice of Appeal and Optional Statement of Election filed by Creditor Federal National Mortgage Association (EDLING, EMILIE). Appeal Designation Due: 07/13/2015.. (ljr). (Admin.) (Entered: 07/01/2015) |

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| Claim 4-1 | 1/20/2015 | 01/20/2015 Claim #4 filed by Meritage Homeowners' Association, Amount claimed: \$60378.35 (WARREN, BRITTA) |
| Adv. Case No. 14-03271 Doc. 21 | 12/23/2014 | Answer to Complaint, Counterclaim and Third-Party Complaint by Meritage Homeowners' Association against Federal National Mortgage Association ("Fannie Mae") Filed by Meritage Homeowners' Association (WARREN, BRITTA) Modified on 1/14/2015 (ljr). Corrected docket text to add "Counterclaim". (Entered: 12/23/2014) |
| Oregon District Court Case No. 3:15-cv-01200 Doc. No. 10 | 8/28/15 | Motion to Supplement Federal National Mortgage Association's Motion to Supplement the Record on Appeal or in Alternative Request for Judicial Notice. Oral Argument requested. Filed by Federal National Mortgage Association. (Edling, Emilie) (Entered: 08/28/2015) |
| Oregon District Court Case No. 3:15-cv-01200 Doc. No. 11 | 8/28/15 | Declaration of Declaration of Emilie K. Edling in Support of Federal National Mortgage Association's Motion to Supplement the Record on Appeal. Filed by Federal National Mortgage Association. (Related document(s): Motion to Supplement, 10 .) (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Exhibit 2, # 3 Exhibit Exhibit 3, # 4 Exhibit Exhibit 4, # 5 Exhibit Exhibit 5) (Edling, Emilie) (Entered: 08/28/2015) |
| Oregon District Court Case No. 3:15-cv-01200 Doc. No. 11 | 3/14/16 | MINUTES of Proceedings: Oral Argument heard. Matter taken under advisement as of 3/14/2016. Emilie Edling, Britta Warren present as counsel for Appellant. Douglas Ricks present as counsel for debtors. Court Reporter: Bridget Montero. Judge Ann L. Aiken presiding. (bb) (Entered: 03/16/2016) |
| Oregon District Court Case No. 3:15-cv-01200 Transcript | 3/14/16 | Actual transcript of oral argument. |

III. NOTICE OF ORDERING TRANSCRIPT

Fannie Mae previously provided notification that the hearings held in the bankruptcy court were all previously ordered and should be included in the record on appeal; to wit, the

November 13, 2014 hearing on the Confirmation Hearing of the Debtor's Chapter 13 Plan; the hearing occurring on April 15, 2015 on Fannie Mae's Motion to Vacate and the hearing occurring June 11, 2015 on Fannie Mae's Motion for Reconsideration. Fannie Mae additionally intends to order a transcript of the hearing occurring on March 14, 2016 in the District Court for the District of Oregon, case No. 3:15-cv-01200-AA, for inclusion in the record on appeal.

DATED this 28th day of April, 2016.

HOUSER & ALLISON, APC

BY /s/ Emilie K. Edling

Emilie K. Edling, OSB #035931

E-mail: eedling@houser-law.com

HOUSER & ALLISON, APC

9600 SW Oak St., Suite 570

Portland, OR 97223

Telephone: (503) 914-1382

Facsimile: (503) 914-1383

Attorney for the Federal National Mortgage
Association

CERTIFICATE OF SERVICE

I, Emilie K. Edling, hereby certify that on April 28, 2016, I electronically filed the foregoing APPELLANT'S STATEMENT OF ISSUES, DESIGNATION OF RECORD ON APPEAL, AND NOTICE OF ORDERING TRANSCRIPT with the Clerk of the Court for the United States District of Oregon by using the ECF system.

I served to all parties in this case via ECF system a true and correct copy of the foregoing APPELLANT'S STATEMENT OF ISSUES, DESIGNATION OF RECORD ON APPEAL, AND NOTICE OF ORDERING TRANSCRIPT.

DATED: April 28, 2016

HOUSER & ALLISON
A Professional Corporation

By: /s/ Emilie K. Edling
Emilie K. Edling, Esq.
*Attorneys for Appellant the Federal
National Mortgage Association*